

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Allocation of Spectrum Below )  
5 GHz Transferred from )  
Federal Government Use )

ET Docket No. 94-32

To: The Commission

DOCKET FILE COPY ORIGINAL

COMMENTS  
OF THE  
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA"),<sup>1</sup> pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, respectfully submits its Comments in response to the second Notice of Proposed Rule Making ("1st R&O and 2nd NPRM") issued by the Federal Communications Commission in the above-captioned proceeding.<sup>2</sup>

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<sup>1</sup>PCIA is an international trade association created by the merger of the National Association of Business and Educational Radio, Inc. ("NABER") and PCIA to represent the interests of both commercial mobile radio service (CMRS) and private mobile radio service (PMRS) users and businesses involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, NABER is the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, 800 MHz General Category frequencies for Business eligibles and conventional SMR systems, and for the 929 MHz paging frequencies.

<sup>2</sup>60 FR 13012 (March 10, 1995).

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## I. BACKGROUND

This proceeding is the Commission's first proceeding to allocate spectrum transferred from Federal Government to private sector use in accordance with the Omnibus Budget Reconciliation Act of 1993. In its initial Notice of Proposed Rule Making, the Commission proposed allocations for the 2390-2400 MHz, 2402-2417 MHz and 4660-4685 MHz bands which are now available for transfer from the Federal Government and requested comments on the proposed allocations.<sup>3</sup>

PCIA's Comments in response to the 1st NPRM focused on the 2390-2400 MHz band. PCIA informed the Commission that of the spectrum to be reallocated immediately, this portion of the spectrum would be the most beneficial for the private land mobile services.

Although the Commission acknowledged the significant showing that PCIA had made in its Comments that an allocation for new private services was necessary,<sup>4</sup> the Commission elected to make broad-based allocations to other services.

PCIA still strongly believes that an allocation for private users is necessary, and PCIA intends to continue to pursue a private user allocation. In this regard, the Commission's proposed 4660-4685 MHz allocation may serve to satisfy some of the unmet need for private spectrum. Therefore, PCIA's Comments in response

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<sup>3</sup>Notice of Proposed Rule Making, ET Docket No. 94-32, 9 FCC Rcd 6779 (1994) ("1st NPRM").

<sup>4</sup>1st R&O and 2nd NPRM at n. 24.

to the 2nd NPRM portion of this proceeding will focus on certain aspects of the Commission's proposal to create a General Wireless Communications Services ("GWCS") for this band to ensure that the GWCS rules are flexible enough to accommodate all types of fixed and mobile services.

## II. COMMENTS

PCIA supports the Commission's proposal to create a fixed and mobile GWCS in the 4660-4685 MHz band.<sup>5</sup> In addition, the Commission's proposal to maintain footnote US245, which restricts government fixed-satellite service ("FSS") space-to-Earth links, is necessary to prevent interference to terrestrial based mobile services.

With regard to the specific services classifications for this band, PCIA urges flexibility by the Commission at this time. Until such time as equipment is developed and implemented, it is difficult to determine which services can technologically be provided in this band. In addition, given the manner in which the Commission intends to assign the spectrum, it does not appear to be necessary to specify specific services in this band.

In considering the manner in which to allocate licenses in the 4660-4685 MHz band, the Commission has initially concluded that the primary applicants will be for subscriber-based services.<sup>6</sup> However, there is no record in this proceeding to support this conclusion. Specifically, the Commission did not cite a single

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<sup>5</sup>Id. at para. 60.

<sup>6</sup>Id. at para. 66.

commenting party that requested the use of the 4660-4685 MHz band for a mobile service. However, the overwhelming evidence in this proceeding, supplied by PCIA and other parties, is that the need for mobile service in the spectrum to be reallocated is for private use. Therefore, the Commission's conclusion that it should use competitive bidding as the assignment mechanism of choice in this band is not well founded.<sup>7</sup>

Similarly, the Commission's initial conclusion that Major Trading Areas ("MTAs") should be used for geographic licenses in this band is inappropriate.<sup>8</sup> Few, if any, users have a need to construct systems over such a wide area. The Commission's alternative to utilize Basic Trading Areas ("BTAs") is also inappropriate.<sup>9</sup> Some BTAs are too small for some users to construct useable systems. PCIA believes that it maybe more appropriate to utilize the Basic Exchange Areas ("BEAs"), recently developed by the Department of Commerce. BEAs better approximate the natural radio usage patterns of users.<sup>10</sup>

In addition, the implementation of geographic or population build-out requirements as proposed by the Commission are

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<sup>7</sup>If private users systems are not licensed via competitive bidding, PCIA would support the Commission's proposal to prohibit the resale of excess capacity for three years. Id. at para. 82. However, if such licenses were issued via competitive bidding, private user licensees should be free to utilize the spectrum as they see fit.

<sup>8</sup>Id. at para. 79.

<sup>9</sup>Id. at para. 81.

<sup>10</sup>See, PCIA's Comments in PR Docket No. 93-144 filed on March 1, 1995.

inappropriate for user systems.<sup>11</sup> Private users will construct systems to meet their needs. It would not be spectrally efficient or cost effective to require users to build systems where they have no need for service. This presents another reason why licensing on an MTA basis should be avoided.<sup>12</sup>

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<sup>11</sup>1st R&O and 2nd NPRM, supra at para. 124.

<sup>12</sup>Consistent with PCIA's earlier Comments in this docket, the Commission should consider reserving a portion of the 4 GHz band GWCS allocation for private system use. PCIA is currently exploring the manner of addressing this allocation issue in a Petition for Reconsideration of the 1st R&O.

### III. CONCLUSION

PCIA supports the allocation of the 4660-4685 MHz band for a General Wireless Communications Service and PCIA requests that the Commission license the band consistent with the foregoing Comments. **WHEREFORE**, the Personal Communications Industries Association respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

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INDUSTRY ASSOCIATION**

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Date: March 20, 1995

**CERTIFICATE OF SERVICE**

I, Ruth A. Buchanan, a secretary in the law office of Meyer, Faller, Weisman and Rosenberg, P.C. hereby certify that I have on this 20th day of March, 1995 sent via hand delivery a copy of the foregoing **Comments of the Personal Communications Industry Association** to the following:

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